

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ROXANNE ADAMS, ADMINISTRATOR OF
THE ESTATE OF JAMYCHEAL M. MITCHELL,
Deceased,

Plaintiff,

Case No. 2:16-cv-229

v.

NAPHCARE, INC., *et al.*,

Defendants.

PLAINTIFF’S PETITION FOR APPROVAL OF WRONGFUL-DEATH SETTLEMENT

COMES NOW Plaintiff Roxanne Adams, Administrator of the Estate of Jamycheal M. Mitchell, Deceased, by counsel, and pursuant to Virginia Code § 8.01-55 and Fed. R. Civ. P. 41, moves for this Court’s approval of the compromise settlement negotiated by the parties. In support thereof, Plaintiff states as follows:

1. That on August 19, 2015, 24-year-old Jamycheal M. Mitchell (“Mr. Mitchell”) was pronounced dead by EMS while a detainee at Hampton Roads Regional Jail.

2. That Plaintiff Roxanne Adams is the aunt of the Decedent, Mr. Mitchell. Plaintiff is, and was at all relevant times, a resident of the Commonwealth of Virginia. On October 19, 2015, Plaintiff duly qualified as Administrator of the Estate of Jamycheal M. Mitchell, Deceased, in the Circuit Court of City of Portsmouth, under the provisions of Virginia Code § 64.2-454.

3. That Plaintiff filed the above-captioned wrongful-death action asserting claims pursuant to 42 U.S.C. § 1983, as well as state law claims.

4. That the decedent, Mr. Mitchell, is survived by the following:

a. Sonia Adams (Mitchell’s mother)

DOB: [REDACTED]/1964

914 Centre Avenue
Portsmouth, VA 23704

- b. Jasmine Adams (Mitchell's half-sister (through their shared mother, Sonia Adams))

DOB: [REDACTED]/1985
4009 Emerald North Circle
Decatur, Georgia, 30035

- c. Michael Mitchell (Mitchell's father (he provided an affidavit as to his children, who are listed below))

DOB: [REDACTED]/1961

108 Iris Street
Thibodaux, LA 70301

- d. Laquette Monique Miles (Mitchell's half-sister (through their shared father, Michael Mitchell))

DOB: [REDACTED]1983

534 St. Charles By-Pass Road
Thibodaux, LA 70301

- e. Michael Mitchell Miles, Jr. (Mitchell's half-brother (through their shared father, Michael Mitchell))

DOB: [REDACTED]/1979

7050 Highway 105, Apt. 3
Beaumont, TX 77708

- f. Shewanda Miles (Mitchell's half-sister (through their shared father, Michael Mitchell))

DOB: [REDACTED]1978

121 Mobile Estates Drive
Gray, LA 70359

- g. Shavonne Miles (Mitchell's half-sister (through their shared father, Michael Mitchell))

DOB: [REDACTED]/1981

111 Ash Lane
Thibodaux, LA 70301

- h. Jamie Anthony Miles (Mitchell's half-brother (through their shared father, Michael Mitchell))

DOB: Unknown

Address: Unknown

- i. Lance Tucker (Mitchell's half-brother (through their shared father, Michael Mitchell))

DOB: [REDACTED]1977

7201 Glen Mist Street
San Antonio, TX 78239

5. That, as per Virginia Code §8.01-53 (1950, as amended), which designates applicable classes of beneficiaries, and with the sworn input of Michael Mitchell, the foregoing are Mr. Mitchell's statutory beneficiaries (the "Statutory Beneficiaries").

6. That, without admitting liability, the Defendants have agreed to collectively pay and Plaintiff Roxanne Adams, Administrator of the Estate of Jamycheal M. Mitchell, Deceased, has agreed to accept, contingent upon Court approval, cash in the amount of Three Million and 00/100 Dollars (\$3,000,000.00) in full settlement and discharge of all of Plaintiff's claims in this matter. In greater detail:

a. That, without admitting liability, Defendant NaphCare, Inc. ("NaphCare") has agreed to pay, and Plaintiff Roxanne Adams, Administrator of the Estate of Jamycheal M. Mitchell, Deceased, has agreed to accept, contingent upon Court approval, cash in the amount of

One Million Eight Hundred Thousand and 00/100 Dollars (\$1,800,000.00) in full settlement and discharge of all of Plaintiff's claims in this matter against NaphCare and its agents and employees.

b. That, without admitting liability, Defendants Hampton Roads Regional Jail Authority ("HRRJA"); David L. Simons; Eugene Taylor, III; Dale Barnes; Stephano Blakely; Sylvester Bourne; Dancosta Butcher; Christopher Gibbs; William Hilliard; Robert Keister; Joseph Powell; Robert Whitaker; David Smith; Curtis Dixon; Joseph Johnson; Derrick R. Brown; Stephen T. Phillips; William A. Epperson; Steven W. Whitehead; Tamara L. Everette; Roderick D. Madison; Reginald Whitehead; Felicia M. Cowan; Debra K. Ferguson; Kelly N. Boyd; and Gail Hart (the foregoing are collectively referred to as the "HRRJ and Commonwealth Defendants") have agreed to pay, and Plaintiff Roxanne Adams, Administrator of the Estate of Jamycheal M. Mitchell, Deceased, has agreed to accept, contingent upon Court approval, cash in the amount of One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00) in full settlement and discharge of all of Plaintiff's claims in this matter against the HRRJ and Commonwealth Defendants and their agents and employees.

c. As noted above, the foregoing payments are conditioned upon the approval by this Court, in full and final discharge of any and all claims, including any claim for attorneys' fees, costs, and interest, which may or can be asserted for the death of Mr. Mitchell against the Defendants (or any of them), or against any other employees or independent contractors either now or in the past employed or contracted by the HRRJA, NaphCare, and/or any other Defendant arising out of the death of Mr. Mitchell.

7. That Plaintiff acknowledges that this settlement is a compromise of a disputed claim and that the payments are not to be construed as an admission on the part of any Defendant of any liabilities for the damages sustained by the Plaintiff and the statutory beneficiaries.

8. That the Plaintiff and Defendants agree that said compromise is fair and reasonable to all parties.

9. That Plaintiff represents that funeral and cremation expenses have been paid by Sonia Adams (\$200.00); Samuel Adams (now deceased; payable to Roxanne Adams, Executor of the Estate of Samuel Adams, Deceased) (\$1,500.00); Rosa Adams (\$500.00); and Troy Meads (husband of Administrator Roxanne Adams) (\$795.00). They are collectively entitled to reimbursement in the amount of \$2,995.00, to be paid out of the settlement proceeds.

10. That Plaintiff represents that she has been represented by Mark J. Krudys, Esq. and The Krudys Law Firm, PLC, as well as by John Preis, Esq., and that all attorneys' fees and costs and expenses incurred in the matter will be paid from the compromise settlement. (The matter was first presented to Cooper Hurley Injury Lawyers who undertook to find experienced counsel in the matter.) Plaintiff's counsel was employed pursuant to a one-third contingency-fee agreement; Plaintiff's counsels' total fee is \$1,000,000.00. Counsel will divide that amount in the following manner: \$690,000.00 to The Krudys Law Firm, PLC; \$300,000.00 to John Preis, Esq.; and \$10,000.00 to Cooper Hurley Injury Lawyers. Costs advanced by Plaintiff's attorneys or otherwise incurred for representation of Plaintiff total \$58,690.77. (Of the foregoing amount, expert fees total \$27,512.50). An itemization of these costs has been made available to Plaintiff. A "Disbursements Sheet" detailing the foregoing proposed distributions in chart form is attached as **Exhibit 1**.

11. That, as stated in ECF No. 256, there is not unanimity among the statutory beneficiaries as to how the settlement proceeds should be apportioned among themselves. As a result, Plaintiff asks that the court hold a separate, second evidentiary hearing to determine the manner in which the proceeds of the settlement are to be distributed to the statutory beneficiaries.

12. That, upon making the payments referenced in paragraph 6 above, the Defendants and all employees and independent contractors that could be implicated in connection with the Plaintiff's claims in this matter, will be released from any and all liability and claims arising from the injuries to and the death of Mr. Mitchell and that this matter be dismissed with prejudice as to the Defendants.

13. Plaintiff further moves that the balance remaining after the deduction of the costs of attorneys' fees, costs and expenses – \$1,938,314.23 – be held in the trust account of The Krudys Law Firm, PLC, until such time as the Court hears testimony and rules on the division of net proceeds to the Statutory Beneficiaries. (At this time, the Statutory Beneficiaries cannot reach an agreement with regard to the division of the settlement proceeds among the Statutory Beneficiaries. Therefore, Plaintiff requests that the Statutory Beneficiaries be provided the opportunity to put on evidence in support of their assertions before this Court). Plaintiff's counsel will then disburse the net settlement proceeds in accordance with the Court's order.

WHEREFORE, Plaintiff, by counsel, respectfully moves that the Court convene a hearing for the entry of an Order to approve this settlement, that all Defendants be dismissed with prejudice, that a second evidentiary hearing be convened without the required attendance of the Defendants to determine the manner in which the proceeds of this settlement are to distributed among the Statutory Beneficiaries, and grant such other relief as the Court deems necessary and appropriate.

Respectfully submitted,

ROXANNE ADAMS, ADMINISTRATOR
OF THE ESTATE OF JAMYCHEAL M.
MITCHELL, DECEASED

By: /s/ Mark J. Krudys
Counsel

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*Counsel for Plaintiff Roxanne Adams, Administrator of the Estate of
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Certificate of Service

I hereby certify that on this 22nd day of January 2019, I will electronically file the foregoing pleading with the Clerk of Court using the CM/ECF system, which will then send a notification of the filing to the following:

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I will then also send the foregoing pleading and a notification of such filing (NEF) to the following via Email and First-Class Mail:

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